

THE STATE OF TEXAS
COUNTY OF HARRIS

273506
09-0702

AGREEMENT

I. PARTIES

A. Address

THIS AGREEMENT FOR DELINQUENT PARKING CITATION COLLECTION SERVICES ("Agreement") is made on the Countersignature Date between the CITY OF HOUSTON, TEXAS ("City"), a municipal corporation and PROFESSIONAL ACCOUNT MANAGEMENT, LLC, A DUNCAN SOLUTIONS, INC. COMPANY ("Contractor"), a Wisconsin corporation doing business in Texas.

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City

City Purchasing Agent for Director of
Parking Management Department
City of Houston
P. O. Box 1562
City of Houston

Contractor

Professional Account Management, LLC
633 W. Wisconsin, Ave., Suite 1600
Milwaukee, WI 53203-1920
Phone: (414) 847-3701
Fax:

The Parties agree as follows:

B. Table of Contents

TABLE OF CONTENTS

	<u>Page No.</u>
I. PARTIES.....	1
A. Address.....	1
B. Table of Contents	1
C. Parts Incorporated.....	3
D. Controlling Parts.....	3
E. Signatures	4
II. DEFINITIONS.....	5
III. DUTIES OF CONTRACTOR.....	7
A. Scope of Services	7
B. Coordinate Performance	7
C. RELEASE.....	7
D. INDEMNIFICATION	8
E. Indemnification Procedures.....	9
F. Insurance	10
G. Licenses and Permits	13
H. Compliance with Equal Opportunity Ordinance.....	14
I. MWBE Compliance	14
J. Drug Abuse Detection and Deterrence	14
K. Contractor's Performance.....	15
L. Warranties.....	15
M. Payment of Employees and Subcontractors	16
N. RELEASE AND INDEMNIFICATION-(PATIENT, COPYRIGHT,.....	16
TRADEMARK, AND TRADE SECRET INFRINGEMENT)	16
O. Play or Play Program	17
IV. DUTIES OF CITY.....	17
A. REFERRALS BY CITY	17
B. ALLOCATION OF FUNDS	17
C. Partial Payments	18
D. Invoicing.....	18
E. Taxes	19
V. TERM AND TERMINATION	19
A. Contract Term.....	19
B. Notice to Proceed.....	19
C. Renewals	20
D. Termination for Convenience by the Parties.....	20
E. Termination for Cause by City	20
F. Termination for Cause by Contractor	21
G. REMEDIES	22

VI. MISCELLANEOUS	23
A. Independent Contractor	23
B. Force Majeure	23
C. Severability	24
D. Entire Agreement	24
E. Written Amendment	24
F. Applicable Laws	25
G. Notices	25
H. Non-Waiver	25
I. Inspections and Audits	26
J. Enforcement	26
K. Ambiguities	26
L. Survival	26
M. Parties In Interest	26
N. Successors and Assigns	27
O. Business Structure and Assignments	27
P. Remedies Cumulative	27
Q. Contractor Debt	27

EXHIBITS

A. SCOPE OF SERVICES	
B. EQUAL EMPLOYMENT OPPORTUNITY	
C. M/WBE SUBCONTRACT TERMS	
D. DRUG POLICY COMPLIANCE AGREEMENT	
E. CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF CITY OF HOUSTON DRUG DETERRENCE PROCEDURES FOR CONTRACTORS	
F. DRUG POLICY COMPLIANCE DECLARATION	

C. Parts Incorporated

 The above-described exhibits are incorporated into this Agreement.

D. Controlling Parts

 If a conflict among the sections and exhibits arises, the sections control over the exhibits.

E. Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):

By: _____

Name: _____

Title: _____

**PROFESSIONAL ACCOUNT
MANAGEMENT, LLC**

By: _____

Name: Gary Smith

Title: President

ATTEST/SEAL:

Signed by:

City Secretary

CITY OF HOUSTON, TEXAS

Mayor

APPROVED:

COUNTERSIGNED BY:

City Purchasing Agent

City Controller

APPROVED AS TO FORM

DATE COUNTERSIGNED:

Sr. Assistant City Attorney

L. D. File No. 0370900080001

II. DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

“Account” means one parking violation referred to the Contractor.

"Agreement" means this contract between the Parties, including all exhibits, and any written amendments authorized by City Council and Contractor.

"Alleged Violator" means the individual who is alleged to be responsible for unpaid and/or delinquent outstanding Parking Violation Citations.

"Business Day" is used to describe Monday through Friday, 8 a.m. – 5 p.m., excluding official City of Houston Holidays.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date shown as the date countersigned on the signature page of this Agreement.

"Delinquent Citations" mean parking violation citations that are delinquent if payment has not been made within the time specified in Article 103.0031(f) of the Texas Code of Criminal Procedure as amended.

"Director" means the Director of the General Services Department or his or her designee.

"Documents" include the collection system, notes, manuals, notebooks, plans, computations, databases, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, scripts, notices, the original tracings of all drawings, designs and plans, electronic data and computer programs and other work

products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement, or developed in conjunction with the City or with the Contractor's subcontractors.

"Mailing Noticing System" means an automated state of the art noticing method that meets or exceeds industry standards as established by the United States Postal Service for processing all mail notices required by this Agreement, capable of printing the notice, folding and inserting the notice into an envelope, applying appropriate postage and delivering the notices to an appropriate US Post Office for mailing in compliance with all applicable US Postal regulations. If the City has provided the necessary information and approved the forms, the Notice must include a payment coupon that provides an Optical Character Recognition ("OCR") scan line to allow for automated payment process at an off site payment center.

"Master File Accounts" means Account data files submitted by the City to the Contractor and maintained by the Contractor under the terms of this Agreement.

"Nixie" means a mailing piece that in undeliverable as addressed and is returned to the mailer by the U. S. Postal Service, also - called *undeliverable as-addressed* mail.

"Notice to Proceed" means a written communication from the Director to Contractor instructing Contractor to begin performance.

"OCA Reports" mean reports that are filed monthly by the Municipal Courts Administration Department with the Texas Office of Court Administration reports.

"Parking Citation" means a Citation issued as a result of an alleged motor vehicle parking violation.

"Parking Division's Citation Management System" is a computer-based information system used to store and manage records associated with all phases of citation issuance, permitting, collections, hearings, and correspondence issued by any City authorized entity or individual.

"Parking Management Collection Services" and "Services" refer to the complete collection process that makes up the final, delivered services.

"Parking Management Project Team" is used to describe the individuals who will work with the Contractor to implement the solution.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"Pre-Collection Fee Accounts" mean accounts referred by the Director to the Contractor that were filed prior to the imposition of the collection fee provided for in Art. 103.0031, Texas Code of Criminal Procedure as amended.

II. DUTIES OF CONTRACTOR

A. Scope of Services

Contractor shall provide Delinquent Parking Violation Citation Collection Services as described in Exhibit "A", Scope of Services.

B. Coordinate Performance

Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other persons(s) of all significant events relating to the performance of this Agreement.

C. RELEASE

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES

(COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

D. INDEMNIFICATION

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND

(3) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT. CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

E. Indemnification Procedures

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances, which could give, rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice.

If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

F. Insurance

Contractor shall maintain in effect certain insurance coverage, which is described as follows:

(1) Risks and Limits of Liability. Contractor shall maintain the following coverages and limits of liability:

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily injury by accident \$100,000 (each accident) Bodily injury by disease \$100,000 (policy limit) Bodily injury by disease \$100,000 (each employee)

Commercial General Liability: Including Broad Form Coverage, Contractual Liability, Bodily and Personal Injury, and Completed Operations	Bodily Injury and Property Damage, Combined Limits of \$500,000 each Occurrence and \$1,000,000 aggregate
--	--

Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Non-Owned and Hired Auto Coverage)	\$1,000,000 combined single limit per occurrence
---	---

Professional Liability Insurance	\$500,000 each occurrence \$1,000,000 aggregate
----------------------------------	--

Automobile liability insurance for autos furnished or used in the course of performance of this Contract including Owned, Non-owned and Hired Auto coverage (Any Auto coverage may be substituted for Owned, Non-owned and Hired Auto coverage.) If no autos are owned by the Contractor, coverage may be limited to Non-owned and Hired Autos. If Owned Auto coverage cannot be purchased by Contractor, Scheduled Auto coverage may be substituted for Owned Auto coverage. EACH AUTO USED IN PERFORMANCE OF THIS CONTRACT MUST BE COVERED IN THE LIMITS SPECIFIED.

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period
unless otherwise indicated.

(2) Form of Policies. The Director may approve the form of the insurance policies, but nothing the Director does or fails to do relieves Contractor from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.

(3) Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, Property-Casualty United States.

(4) Insured Parties. Each policy, except those for Workers' Compensation, Employer's Liability, and Professional Liability must name the City (and its officers, agents, and employees) as Additional Insured parties on the original policy and all renewals or replacements.

(5) Deductibles. Contractor shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.

(6) Cancellation. Each policy may not be canceled, materially modified, or non-renewed unless the Contractor gives the Director 30 days' advance written notice. Contractor shall give written notice to the Director within five days of the date on which total claims by any party against Contractor reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

(7) Subrogation. Contractor hereby waives any right of subrogation as it relates to coverage under its Commercial General and Auto Policies, and each policy must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

(8) Liability for Premium. Contractor shall pay all insurance premiums, and the City shall not be obligated to pay any premiums.

(9) Subcontractors. Contractor shall require all subcontractors to carry insurance naming the City as an additional insured and meeting all of the above requirements except amount. The amount must be commensurate with the amount of the subcontract, but in no case less than \$500,000 per occurrence. Contractor shall provide copies of insurance certificates to the Director.

(10) Proof of Insurance.

(a) On the Effective Date and at any time during the Term of this Agreement, Contractor shall furnish the Director with Certificates of Insurance, along with an Affidavit from Contractor confirming that the Certificates accurately reflect the insurance coverage maintained. Only unaltered original insurance certificates endorsed by the underwriter are acceptable. Photocopies are unacceptable.

(b) Contractor shall continuously and without interruption, maintain in force the required insurance coverages specified in this Section. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may

(1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

(2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

(12) Other Insurance. If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

G. Licenses and Permits

Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation.

H. Compliance with Equal Opportunity Ordinance

Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "B."

I. MWBE Compliance

Contractor shall comply with the city's minority and women business enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 11% of the value of this agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the city's affirmative action division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBE to binding arbitration in Houston, Texas if directed to do so by the affirmative action division director. MWBE subcontracts must contain the terms set out in Exhibit C. If contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

J. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is

incorporated into this Agreement as Exhibits "D", "E" and "F" and is on file in the City Secretary's Office.

K. Contractor's Performance

Contractor should make citizen satisfaction a priority in providing services under this Contract. Contractor's employees should be trained to be customer-service oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees should be clean, courteous, efficient and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the Contractor shall take all remedial steps to conform to the standards set by this Contract and is subject to termination for breach of contract.

L. WARRANTIES

(1) **GENERAL WARRANTY**

CONTRACTOR'S PERFORMANCE SHALL CONFORM TO THE PROFESSIONAL STANDARDS PREVAILING IN HARRIS COUNTY, TEXAS WITH RESPECT TO THE SCOPE, QUALITY, DUE DILIGENCE, AND CARE OF THE SERVICES AND PRODUCTS CONTRACTOR PROVIDES UNDER THIS AGREEMENT.

(2) **SYSTEM WARRANTY**

THE CONTRACTOR WARRANTS THAT ITS COLLECTION SYSTEM WILL PERFORM. THE CONTRACTOR IS RESPONSIBLE FOR THE PROMPT CORRECTION OF ANY ERRORS OR OMISSIONS. IN THE EVENT OF ANY INTERRUPTION OF SERVICE, OR FAILURE OF CONTRACTOR'S

COLLECTION SYSTEM OR CONTRACTOR'S PERSONNEL TO PERFORM SERVICE AS SPECIFIED IN THIS AGREEMENT, THE CONTRACTOR SHALL IMMEDIATELY RESTORE AND PROVIDE SUCH SERVICES TO THE CITY.

M. Payment of Employees and Subcontractors

Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.

Contractor shall submit disputes relating to payment of MWBE subcontractors to arbitration in the same manner as any other disputes under the MWBE subcontract.

N. RELEASE AND INDEMNIFICATION - (PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT)

CONTRACTOR AGREES TO AND SHALL RELEASE AND DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY BY ANY PARTY, INCLUDING CONTRACTOR, ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS, WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT.

WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS.

O. Pay or Play Program

The requirements and terms of the City of Houston Pay or Play Program, as set out in Executive Order 1-7, are incorporated into this agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

III. DUTIES OF CITY

A. REFERRALS BY CITY

The Director will designate the Delinquent Citations to be referred as Accounts to Contractor.

B. ALLOCATION OF FUNDS /Limitation of City's Duty to Pay

(1) The City's duties to pay money to the Contractor for any purpose under this Agreement are limited in their entirety by the provisions of this Section B. In order to comply with Article II, Section 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has not allocated any amount collected by Contractor under this Agreement ("Original Allocation") equal to the City's obligations to pay hereunder to be used to

discharge its duties to pay money under this Agreement and no other funds are allocated hereunder. Notwithstanding anything herein to the contrary, Contractor agrees that the City's obligations under this Agreement are limited to the collection amounts authorized under this Agreement

(2) The City agrees to pay, and the Contractor agrees to accept, as its sole compensation for services performed under this Agreement, fees equal to the collection fee authorized by Art. 103.0031, Texas Code of Criminal Procedure.

(3) The 30% collection fee does not apply to Pre-Collection Fee Accounts, assigned to Contractor.

C. Partial Payments

In the event of a payment by an Alleged Violator in amount less than the Judgment Amount, the payment will be prorated pursuant to Art. 103.0031 (e), Texas Code of Criminal Procedure. EXAMPLE: Assume the fine owed to the City is \$50 inclusive of the \$5 Child Safety fund fee. Total Fine Amount is therefore \$50. The Alleged Violator makes a partial payment of \$40. The partial payment is allocated as follows:

1. \$ 40 x \$50 (fine) / \$65 (fine amount plus collection fee) = \$ 30.77 of the partial payment to the City.
2. \$ 40 x 15 (30% x \$50 (fine amount) / \$65 = \$9.23 of the partial payment to the Contractor.

D. Invoicing

Contractor shall submit its invoice to the Director for performance of services as set out above for any fee that may be due as provided in above, for the preceding calendar month, based

on fee authorized by Article 103.0031 of the Texas Code of Criminal Procedure as amended.

The City shall pay Contractor within thirty (30) days of the receipt and approval of the invoices.

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director for the applicable services shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

F. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

IV. TERM AND TERMINATION

A. Contract Term

This Agreement is effective on the Countersignature Date and expires three years after the date the first collection notice extracted from the Justice Solutions Database is mailed by Contractor to Alleged Violators, unless sooner terminated according to the terms of this Agreement, the Initial Term.

B. Notice to Proceed

Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the Director.

C. Renewals

Upon expiration of the Initial Term, this Agreement will be automatically renewed for two successive one-year terms upon the same terms and conditions of this Agreement. If the Director of the City chooses not to renew this Agreement, the Director shall notify Contractor of non-renewal at least 60 days before the expiration of the then-current renewal term.

D. Termination for Convenience by the Parties

The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may terminate this Agreement at any time by giving 60 days written notice to the other Party. The Parties' right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

On receiving the notice, the Party receiving notice shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement, unless otherwise specified.

E. Termination for Cause by City

If Contractor defaults under this Agreement, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future.

Default by Contractor occurs if:

- (1) Contractor fails to perform any of its duties under this Agreement;
- (2) Contractor becomes insolvent;
- (3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

(4) a receiver or trustee is appointed for Contractor.

If a default occurs, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent shall deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent, at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the City Purchasing Agent or Director upon written notice to the City Purchasing Agent may terminate this Agreement on the termination date, at no further obligation of the City.

To effect final termination, the City Purchasing Agent or Director upon written notice to the City Purchasing Agent must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement.

F. Termination for Cause by Contractor

Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed

termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

G. REMEDIES

(1) UPON TERMINATION OF THIS AGREEMENT, RECEIPT OF PAYMENT FOR SERVICES RENDERED UP TO THE DATE OF TERMINATION ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE OR CAUSE. TERMINATION FOR CONVENIENCE OR CAUSE BY THE CITY DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE OR CAUSE. WITHIN 30 DAYS OF TERMINATION CONTRACTOR SHALL INVOICE CITY FOR ALL FEES DUE CONTRACTOR UP TO THE DATE OF TERMINATION. CONTRACTOR SHALL NOT BE ENTITLED TO ANY COLLECTION FEES FOR PAYMENTS MADE TO CITY AFTER DATE OF TERMINATION.

(2) IN THE EVENT CONTRACTOR OWES MONEY TO CITY PURSUANT TO THIS AGREEMENT CITY SHALL DEDUCT MONEY OWED TO CITY FROM ANY FEES OWED BY CITY TO CONTRACTOR.

(3) LIQUIDATED DAMAGES

In the event Contractor defaults prior to the end of the last 30 months of the Initial Term of this Agreement or prior to the end of years four or five, City will suffer harm,

although the actual damages from that harm are difficult to estimate. Contractor shall pay the City liquidated damages in the amounts set out in the Scope of Services, Section 6.2 unless the goals set forth in the scope of services have been achieved at the time of default. This amount is a reasonable forecast of just compensation for the harm to the city.

V. MISCELLANEOUS

A. Independent Contractor

Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

B. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra Reimbursable Expenses or payment.

2. This relief is not applicable unless the affected party does the following:

- (a) uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and
- (b) provides the other party with prompt written notice of the cause and its anticipated effect.

3. The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final.

4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

C. Severability

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

D. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance

duly adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Venue for any litigation relating to this Agreement is Harris County, Texas.

G. Notices

All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending Party.

H. Non-Waiver

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

I. Inspections and Audits

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 3 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

J. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or state law or regulation.

K. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

L. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

M. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

N. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of either Party.

O. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee. Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

P. Remedies Cumulative

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies, which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

Q. Contractor Debt

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT

CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FOR ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR.

EXHIBIT "A"

SCOPE OF SERVICES

Delinquent Parking Citation Collection Services

1.0 Scope of Work

- 1.1 The scope of work outlines the services the Contractor shall provide to City during the contract term.
- 1.2 The Parking Management Division (PMD) of the General Services Department manages the City's on-street and some off-street parking operations, but it is not the only City department involved with or affected by the services solicited in this RFP. For example, the Police Department issues about 20% of all parking citations.

2.0 City of Houston Code of Ordinances

- 2.1 The services shall help enforce our policies and procedures. The Parking Ordinance (Chapter 26) of the City of Houston Code of Ordinances as amended will provide additional detail on business requirements (See www.houstontx.gov/codes/index.html). The following Violation Codes are subject to change by City Ordinance.

VIOLATION CODES *

Code	Violation	Current Fine	After 45 days
PK-1	Parking meter expired	\$25	\$50
PK-2	Overtime parking	\$25	\$50
PK-3	Not parked wholly within space	\$25	\$50
PK-4	Parked on wrong side of street	\$25	\$50
PK-5	Parked on street more than 24 hours	\$25	\$50
PK-6	Parked non-commercial vehicle in truck zone	\$35	\$60
PK-7	Parked in bus zone	\$45	\$70
PK-8	Parked in reserved zone	\$40	\$70
PK-9	Parked in a fire lane	\$300	\$350
PK-10	Parked in emergency no parking zone	\$55	\$75
PK-11	Parked blocking private driveway	\$35	\$60
PK-12	Parked within 15 feet of fire hydrant	\$100	\$150
PK-13	Blocking or parking on sidewalk	\$35	\$60
PK-14	Parked within 20 feet of a crosswalk-intersection	\$35	\$60
PK-15	Parked within 50 feet of rail crossing	\$35	\$60
PK-16	Parked in a tow away zone	\$65	\$100
PK-17	No parking anytime	\$35	\$60
PK-18	Parked in a school zone	\$50	\$75
PK-19	Other parking violation	\$35	\$60
PK-20	Parked more than 18" from right-hand curb	\$35	\$60
PK-21	Parked in a handicapped zone	\$205	\$410

PK-22	Commercial vehicle parked between 2 a.m. and 6 p.m.	\$55	\$75
PK-23	Parked large vehicle in residential district	\$55	\$75
PK-24	Parked in fire zone	\$125	\$175
PK-25	Other fire code parking violation	\$300	\$350
PK-26	Trailer/semi-trailer parked on street over 2 hours	\$55	\$75
PK-27	Parked on park lawn where prohibited by sign	\$55	\$75
PK-28	Parked obstructing street	\$35	\$60
PK-29	Double parked	\$35	\$60
PK-30	Parked not at a meter in a metered zone	\$25	\$50
PK-36	Parked non-commercial vehicle in CVLZ	\$250	\$350
PK-37	Parked using CVLZ and not loading/unloading expeditiously	\$250	\$350
PK-38	Parked in CVLZ without permit or paying	\$300	\$400

*** The Fine includes the \$5.00 Child Safety Fund Fee.**

3.0 Collection Services Requirements

The following general specifications are the minimum requirements for this project:

- 3.1 Contractor services shall be a fully integrated delinquent parking citation collection service that will incorporate a relational database and web development technology.
- 3.2 Contractor services, at a minimum, shall provide the ability to track and manage customer's receipts and payments. The database used for tracking the aforementioned items shall be easy to use and relational for searches, information updates, queries, and advanced reporting.
- 3.3 Contractors services shall be based on a parking collection business model and focus on common elements and relationships present in all parking operations. These elements shall be linked through financial relationships and audit trails.
- 3.4 Within ten days of the Countersignature Date Contractor shall pay for the interface to the Parking Management Software System in an amount not to exceed \$10,000.
- 3.5 Contractor shall interface with the existing citation management system (CourtView by Justice Solutions) and will be expected to interface with the new parking management software system within 365 days from the Countersignature Date of this Agreement.

4.0 Accounts

- 4.1 For all accounts, the Contractor shall implement all services described herein including, but not limited to:
 - 4.1.1 Notice mailings
 - 4.1.2 Address research
 - 4.1.3 Phone efforts
 - 4.1.4 Notifications to violators
 - 4.1.5 Providing management information and reports
 - 4.1.6 Providing all necessary equipment, facilities and communications

- 4.1.7 Personnel and administrative support
- 4.1.8 Providing all necessary software programs
- 4.1.9 Providing security, insurance
- 4.1.10 Providing all inquiries and correspondence
- 4.1.11 Participate in City of Houston amnesty periods as requested
- 4.1.12 Utilize non-traditional methods of collection

4.2 The Contractor shall generate written correspondence based on the information in the Contractor's Master File. The Contractor shall maintain copies for review by the Director.

5.0 Required Processes and Standards

5.1 The Contractor shall maintain the following processes and work plan description at all times. It is recognized by the Parties that these processes and work plan represent the minimum efforts required of the Contractor and that the Contractor may, at its option, perform additional collection efforts in addition to, but not inconsistent with these required processes and standards.

5.2 The Contractor shall provide daily updates to the Parking Division Citation Management System of all methods used for collection efforts on all affected Accounts.

5.3 All expenses for notices, telephone calls, postage and other services performed by the Contractor shall be paid by the Contractor at its sole expense.

5.3.1 Violators Identification and Address Research

5.3.2 The City will make an attempt to locate the Alleged Violator. However, it is the Contractor's responsibility to contract with a vendor to locate the Alleged Violator and to also pass that ownership information back to the City on a daily basis.

5.3.3 Internal Search. Contractor shall search its existing database to determine if an address and telephone number of the Alleged Violator exists and if the Contractor has previously made contact.

5.3.4 National Change of Address (NCOA) Submission. Prior to mailing any of the notices pursuant to this Agreement, the Contractor shall submit the proposed mail file for NCOA. If a new address is indicated by the NCOA submission, the Contractor shall mail notices to the new address obtained from NCOA. The Contractor shall provide NCOA information to the City on a daily basis directly to Parking Division Citation Management System via FTP file transfer.

5.3.5 Electronic Skip-tracing. The Contractor shall submit the name of the Alleged Violator for skip-tracing to a minimum of two services that perform this service electronically. The Contractor will determine the service(s) to be used for this purpose. Once the Contractor has located the current address or current phone number of an Alleged Violator, that information is to be provided to the City on a daily basis directly to the Parking Management Citation System via FTP file transfer.

5.3.6 Manual Skip-tracing. The Contractor shall differentiate between electronic skip-tracing methods as described in Subsection (5.3.5) above which must be performed on all Accounts and manual skip-tracing.

5.4 For the following Account type listed below in 5.4.1 where the electronic skip-tracing described in subsection (5.3.5) above does not result in a good mailing address and/or

telephone number the Contractor shall also attempt to obtain an address and/or telephone number through manual skip-tracing pursuant to the following protocol. The Contractor shall provide to the City the name, address, phone number and contact person of the in house/agencies/services that the Contractor uses to provide manual skip-tracing.

5.4.1 Contractor shall notify City when the Alleged Violator's citation is 1 to 3 years old from date of assignment and has accrued unpaid Accounts for a total amount owed in excess of \$500. When the Alleged Violator's citation is 4 to 7 years old from date of assignment and has accrued unpaid Accounts for a total amount owed in excess of \$1000.

5.4.2 Acquisition of Telephone Numbers. In addition to the foregoing electronic and manual skip-tracing the Contractor shall also, for any Alleged Violator for which it does not have a valid telephone number, utilize methods to obtain a valid telephone number. Once a new telephone number is located and the file is updated, Contractor shall provide the new information to the City on a daily basis directly to the Parking Management Citation System.

5.5 Mail Notices

5.5.1 Frequency of Notices. The collection program will consist of a coordinated program of mailing notices, outbound telephone calling and non-traditional collection efforts. The Contractor is expected to optimize the sequencing and timing of the collection methods to pursue collection of an Account. The Contractor, at a minimum, shall send, within seven (7) Business Days of assignment of an Account, a written notice with respect to each Alleged Violator for which there is an address (which address has not been previously returned). The Contractor shall send additional written notices where there is an address (which address has not been previously returned) when collection of the debt has not been realized within thirty (30) days of assignment of an Account.

5.5.2 Pre-Collection Fee Cases that were assigned after the Effective date of this Agreement are not charged the 30% collection fee; however, the Contractor shall be required to mail two notices for the accounts where there is a valid address.

5.6 Telephone Efforts and Contacts

5.6.1 Frequency of Telephone Efforts for Citations. The Contractor shall attempt to contact Alleged Violator, where a valid telephone number has been obtained, not less than six (6) times on six separate days and at different times. The intention is for the Contractor to continue to locate the Alleged Violator to encourage him/her to resolve their outstanding Accounts. The Contractor upon reaching an Alleged Violator shall make every effort to resolve all outstanding Accounts. The Contractor shall complete these telephone efforts within sixty (60) days of the date when the Contractor obtains a valid telephone number for the Alleged Violator. The Contractor shall maintain Spanish speaking staff to assist Spanish speaking customers who are not fluent in English. The Contractor shall provide an 800 phone line to assist Alleged Violators in resolving their

Accounts; this phone number must be provided on all forms and correspondence.

- 5.6.2 Special Instructions and Constraints. Any telephone contact between Contractor and the public must be limited to Monday through Saturday between the hours of 8 a.m. and 9 p.m. of the time zone for the person being called. Contractor must provide Spanish language speaking staff to properly communicate with Spanish language speaking persons who are not fluent in English. Contractor shall provide a toll free number for all public contact. Complaints received from the public shall be maintained in a database and both the complaint and the resolution shall be provided to the Director as part of the invoice process.
- 5.6.3 Telephone Efforts and Contact Performance Report. A performance report regarding telephone contact per Alleged Violator must be submitted.

5.7 Non-traditional Collection Efforts

The Contractor shall provide a seasonal marketing strategy to encourage Alleged Violators to resolve their Accounts timely. Within 90 days of the First Notice the Contractor shall give Director a written marketing plan with implementation timeline, proposed budget and types of media outlets. At the discretion of the Director the marketing plan shall include credit bureau reporting and payment plans. Director shall have the right to request Contractor to revise the marketing plan and implementation timeline at the discretion of the Director. In the event Contractor and Director fail to agree on a marketing plan and implementation timeline the sole remedy shall be termination of this Agreement. All non-traditional collection efforts will be at the sole expense of the contractor.

5.7.1 The Contractor may utilize the following non-traditional collection efforts:

- a) Time Payment Plans: Contractor shall implement an outreach program to notify Alleged Violators who qualify for booting that they may enter into a Time Payment Plan (TPP) to be managed by the Contractor. All Accounts that qualify for the TPP offer will be approved by the Director of the Parking Management Division. Contractor shall notify the City, through the interface to the Parking Management software, of Time Payment Plans so that City may suspend booting and towing enforcement against the Alleged Violator as long as the payment plan remains in good standing.
- b) Credit Bureau Reporting: At the direction of the Director of Parking Management Division, Contractor shall report Alleged Violator debt to credit agencies. Before such approved reporting, Contractor shall mail a letter to the Alleged Violator warning of the impending credit bureau filing if debt is not paid within thirty (30) days.
- c) Booting service pursuant to approval and direction of the Director.
- d) Advertising, and public awareness campaigns.

5.8 Litigation and Legal Services

The Contractor may litigate civil cases with the written consent of the City Attorney and Director. Contractor shall not send out any notices, collection letters or file any legal proceedings to collect Accounts without the written consent of the City Attorney or

designee. Litigation and Legal Services will be at the sole cost and expense of the Contractor.

5.8.1 Contractor shall provide a written staffing plan for the Director to review within 30 days of the Countersignature Date. The Director shall have the right to require additional staff or final approval of the staffing plan as presented.

5.8.2 The Contractor shall provide to the Director one contact person who shall be available for operational discussions and attend meetings to review performance. Contractor shall include the biographies and resume of the Project Manager and an organization chart.

6.0 Performance Standards

6.1 Liquidated Damages for Failure to Perform Required Processes. The Contractor agrees and acknowledges that performance of this Agreement can be measured in both increased Account resolution, increased revenue and can partially be measured by the level of effort provided by the Contractor through both noticing efforts and telephone contact efforts. The Contractor shall provide monthly reports to the Director setting out the amount of collections. Failure to perform the required processes as set out in Section 5 of this Scope of Services, above will result in damages to the City that are difficult to estimate. Therefore, the Contractor shall pay the City liquidated damages for failure to perform these processes as set out below. This amount is a reasonable forecast of just compensation for the harm to the City.

6.2 Liquidated Damages Table

The amount of liquidated damages per instance shall be based upon the percentage of the required goal achieved by the Contractor:

GOAL *	99% ACHIEVED	90% TO 98% ACHIEVED	LESS THAN 90% ACHIEVED
40% Collection Rate	N/A	\$50,000	\$75,000
45% Closure Rate	N/A	\$50,000	\$75,000

*If goal(s) is not achieved, payment is due to the City within 30 days of submission of the final performance report by the contractor.

6.3 If less than 100% of the City's Delinquent Accounts are referred to the Contractor, the liquidated damages amount shall be reduced proportionate to the percentage of Accounts not referred.

6.4 Reporting on Required Processes

The Contractor shall submit an invoice with all required performance reports and show the Contractor's activities with respect to the required processes and the percentage of the compliance for each as set out above on a monthly basis. The report will be in a form to be agreed upon by the Director and the Contractor. The reports that provide performance metrics as to required processes shall be a part of the invoice process.

6.5 Performance Goal:

6.5.1 Contractor has a 40% collection rate goal to be averaged over the last 30 months of the initial term of this Agreement on new accounts referred to the Contractor. Liquidated damages for not achieving this goal are stated in 6.2 above. Collection is

defined as paid accounts only, excluding accounts where no registered owner has been found at DMV. Accounts recalled by the City will reduce the number of assigned accounts.

6.5.2 Contractor has a 45% Closure Rate goal to be averaged over the last 30 months of the initial term of this Agreement. Upon assignment of the backlog of citations from the Justice Solutions ICMs, City and Contractor shall analyze account assignments, Nixies, no hits at DMV, account recalls and other forms of dispositions for the past two years and identify backlog citations that qualify as collectible and subject to the guarantee. Liquidated damages for not achieving this goal are stated in 6.2 above.

Closed is defined as paid, dismissed, Nixies, no hits at DMV, and accounts that cannot be traced. Accounts recalled by the City will reduce the number of assigned accounts.

6.5.3. If this Agreement is renewed upon expiration of the Initial Term, the Contractor shall achieve the goal of a 40% collection rate and a 45% closure rate for all new accounts referred in year 4 and year 5 of this Agreement under the same terms or be subject to liquidated damages as stated in 6.2 above for each renewal year..

6.6 Contractor shall check Department of Motor Vehicle (DMV) records for all assigned Accounts with an out of state license plate number from states that provide name and address information for the registered owner of the vehicle based on the license place.

7.0 Payment Processing

7.1 The Contractor shall instruct Alleged Violators to make payments to a post office box or other address designated by the Director or to the City's Web or telephone payment portals. The City's payment transaction detail with updated transaction data shall be provided to the Contractor on a daily basis via File Transfer Protocol ("FTP") file transfer. Contractor shall update its database with this transaction detail on a daily basis. If there is any problem with this upload, the Contractor shall provide the City immediate notification no later than the end of the same Business Day. It is the Contractor's responsibility to ensure that the transaction upload information is done daily and that the collection personnel for the Contractor have online, real time access to this important information. After the Account is resolved the Alleged Violator shall not be contacted by Contractor.

7.2 The Contractor shall properly process all telephone credit card payments, electronic check payment or other forms of electronic payments used by the Contractor's telephone collection staff before the end of the same business day. All payments shall be processed and reported in a timely manner. The criteria and the process for this transaction detail shall be approved by the Director and must provide real time payment information directly to the City's Parking Management Citation System. The Contractor's personnel that are processing credit card, electronic check payment and other electronic payments, in addition to being bonded and insured, must be checked for fraud and regularly monitored to avoid the potential problem of stealing credit cards and information pertaining to Alleged Violators. If the Contractor finds any evidence or receives any complaint from a citizen that their credit card or other personal information has been used falsely by personnel of the Contractor, the City shall be notified in writing within 24 hours that an investigation has commenced and that the personnel involved are no longer allowed to work the City of Houston account.

7.3 For credit card processing, Contractor shall make Alleged Violators aware of the \$5 online convenience fee. Contractor may collect credit card payments from Alleged Violators using approved credit card processing criteria and process provided by the Director. All credit card payments and information shall be provided to Parking Management by the end of the same Business Day. Contractor shall provide a separate monthly report to the Director providing all payment information requested by the Director. Contractor shall provide this service to the City at no cost. Contractor shall properly process and post all telephone credit card payments, electronic check payments or other forms of electronic payment.

7.4 Installation Payments.

The City may elect to promulgate a program where Alleged Violators who cannot afford to pay the total amount of fines may be afforded an opportunity to pay the fines on their accounts through an installment payment plan. In the event the City promulgates such a plan, the Contractor will undertake reasonable efforts to implement an Installment Payment Plan and to inform Alleged Violators of its availability.

7.5 City shall provide Contractor with one license to Parking Management Division System's new T2Flex Software System.

7.6 Lockbox.

Upon request of the Director, the Contractor shall provide reasonable and necessary consulting services to assist the City with the implementation of a bank lockbox for processing parking citation payments to the City. The lockbox shall be in a City approved depository bank. In addition to providing these consulting services, the Contractor will reimburse the City for the cost of the bank's charge for the lockbox in an amount not to exceed \$32,000 per calendar year. The reimbursement shall be made monthly as the City receives invoices for the lockbox services. The Contractor may satisfy this obligation by paying the lockbox vendor directly if the City chooses this option. Implementation of the lockbox shall begin upon approval by the Director.

8.0 Contractor Service Levels

8.1 System Compatibility

The City shall create and transmit Account information to the Contractor by a mutually agreed method. As the City provides this information to the Contractor, the Contractor shall update its relational database on a daily basis with the transaction detail provided by the City. Any issues or concerns regarding this upload shall be reported to the City immediately and the Contractor shall address any technical difficulties within 48 hours.

8.1.1 The Contractor shall create and transmit to the City a FTP file on a daily basis, which shall show any updated identification on an Alleged Violator location/contact information, payments received by the Contractor in its collection efforts. The Contractor shall prepare the FTP file transfer in a standard file format to be mutually agreed by the Contractor and the Director.

8.2

Master File Access

The Contractor shall provide, at no cost to the City, real time online access for up to ten persons designated by the Director to Contractor's Master File of Accounts. In addition, the Contractor shall continue to provide access to information on those Accounts that have been paid or otherwise disposed for a period of at least ninety (90) days following final disposition of the Account. The Contractor shall retain all Master File information and transactions for the entire term of the Agreement.

8.2.1 The Contractor shall provide the capability for the City to access online all payment processing information as well as noticing, payment, disposition activities and the corresponding dates of such activities. Contractor shall also provide training to Parking Management Project Team on Contractor's processing system.

8.3

Management Information System

The Contractor shall perform all computer programming that is necessary to generate the electronic or written reports that are required by the Director for the execution and monitoring of Contractor's performance. The Director will specify the types and specifications of performance reports. Unless otherwise provided, the Director may, at his or her sole discretion, modify or enhance Contractor's reporting requirements at anytime during the Agreement term upon ten (10) Business Days advance written notice to the Contractor. Upon implementation, Contractor shall be responsible for necessary interface requirements to the City's new case management system. Specifications will be developed by Contractor and approved by Director. Contractor shall pay 50% of the cost of any subsequent changes in specifications or changes in interface processes that require additional expenditure.

8.3.1 During the term of the Agreement Contractor shall be required to interface with two Parking Division's Citation Management System software programs. Contractor shall interface with Justice Solutions upon and after the Notice to Proceed and continue to work with Justice Solutions until notification by the Director to interface with the T2 Flex Software System

8.4

System Documentation

The Contractor shall provide the Director with complete user documentation of all system flows, processing functions, and procedural and system controls for all payment processing activities for which the Contractor is responsible. This documentation shall, at a minimum, include:

- 8.4.1 Copy of all telephone scripts
- 8.4.2 Policy and Procedures for handling citizen complaints
- 8.4.3 Copy of Contractor's training manuals
- 8.4.4 The manner in which all processing functions are carried out
- 8.4.5 The interrelationships or interfaces between the various sub-systems
- 8.4.6 A functional organizational chart
- 8.4.7 The locations at which such functions are carried out
- 8.4.8 The timing for the carrying out of each function

8.5

The Contractor shall prior to making any enhancements or modifications to the systems and procedures, receive approval from the Director and forward relevant documentation within two (2) Business Days of the implementation of such enhancements or modifications.

9.0 Production Schedule

The Contractor shall prepare a detailed monthly production schedule Report and other document generation, transaction cut-off periods and notice mailing.

9.1 Project Administration

The Director shall provide overall project administration.

9.2 Service Requirements

All telephone contacts made and correspondence used by the Contractor must comply with applicable federal, state and local laws. The Director shall review and approve all correspondence, notices and telephone scripts prior to their use.

10.0 Collection Techniques

10.1 Success of Proposed Collection Techniques

The Director reserves the right to review at any time and approve or disapprove any collection techniques that are proposed by the Contractor.

10.2 Documentation of Collection Efforts

The Contractor shall provide documentation of all collection reports and logs, and other records that are subject to review by the Director for performance standards. The Contractor shall provide a flowchart description of its collection process.

11.0 Performance Reporting

The Contractor shall develop both the collection and closure rate reports and submit them to the Director within 30 days after the Effective Date of this Agreement. These performance reports shall be submitted on a monthly basis along with the invoice. The Contractor is responsible for monitoring its own performance and tracking it against this Agreement, and evaluating its own performance monthly. Failure to produce the performance reports timely may necessitate delaying the payment of the invoice. The Contractor shall implement and operate a system for recording, monitoring and responding to all complaints and requests by the City relative to the Contractor's performance and obligations. Contractor will provide a monthly report to the Director that tracks complaints and resolutions. Contractor shall develop procedures and reporting formats to track and respond to all requests and complaints in a systematic and timely fashion. The Contractor shall be required to provide monthly reports to be submitted to OCCA. The requirements and information for these reports will be provided by the Director.

12.0 General Provisions and Requirements

12.1 Secondary Collection Agency

The Director shall have the right to review and approve the use of any support agencies, secondary (sub-contractor) collection techniques, services, or sub-contractor agencies used. The sub-Contractor collection agency used by the Contractor must be approved by the Director and is subject to the same standards, limitations and restrictions as Contractor. It

shall be Contractor's responsibility to assure that sub-Contractors operate within the terms of this Agreement. The Contractor shall submit monthly reports to the City on all accounts referred to sub-contractors for collection.

12.2 Customer Service

Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor's employees shall be trained to be customer-service oriented and to positively and politely interact with citizens when performing services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance at all times and committed to offering the highest degree of service to the public. If, in the Director's determination, the Contractor is not interacting in a positive and polite manner with citizens, the Director may notify the Contractor of such determination and the Contractor shall immediately take all remedial steps to conform to the standards required by this Agreement.

12.3 Suspend Efforts/Holds and Recall of Accounts

The Contractor shall suspend collection efforts on any Account and take no further action if instructed to do so in writing or by appropriate electronic means such as but not limited to e-mail, fax, by the Director or Designee. Collection efforts may be resumed by a subsequent written request to do so. The Director or Designee also reserves the right to recall (withdraw assignment) any or all uncollected Accounts previously assigned to the Contractor without monetary charge of any kind to the City. For each Account that is suspended, withdrawn or dismissed by the parking adjudication office, the Contractor shall receive no collection fee on such Account, if the Account is In addition, the City may recall or withdraw any uncollected accounts for assignment to another collections vendor.

12.4 Public Awareness Component

The Contractor shall develop a public awareness plan that uses the news media to inform citizens of the consequences of their failure to resolve outstanding parking citations and the various payment options. Neither party will have any obligation under this Agreement or the public awareness plan to purchase any advertising. The Contractor specifically understands and agrees that it may not release any information related to its performance under this Agreement to the news media without the prior written approval of the Director. Contractor shall not issue press releases without pre-approval by both the Mayor's Communication's Office and the Director.

EXHIBIT "B"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The Contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The Contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the Contractor and each subcontractor.

EXHIBIT "C"

MWBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. Edgardo Colon, P.C. (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").
2. Edgardo Colon, P.C. (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action or the applicable statute of limitations.
3. Within five (5) business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.
4. As concluded by the parties to this subcontract, and as evidenced by their signature hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:
 - a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.
 - b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.

Upon submittal of the matter to arbitration each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.
 - c. In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.
 - e. All arbitrations shall be conducted in Houston, Texas, unless the parties agree to a different location.

EXHIBIT "D"
DRUG POLICY COMPLIANCE AGREEMENT

I, Gary Smith President as an owner or officer of
(Name) (Print/Type) (Title)

Professional Account Management, LLC (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug-testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date 7/16/2009

Contractor Name Professional Account Management, LLC

Signature _____

Title President

EXHIBIT "E"

**CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE
PROCEDURES FOR CONTRACTORS**

I, Gary Smith President as an
(NAME) (PRINT/TYPE)

owner or officer of Professional Account Management, LLC (Contractor)
have authority to bind the Contractor with respect to its bid, and certify that Contractor has no
employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be
involved in performing this City Contract. Safety impact position means a Contractor's
employment position involving job duties that if performed with inattentiveness, errors in
judgment, or diminished coordination, dexterity, or composure may result in mistakes that could
present a real and/or imminent threat to the personal health or safety of the employee, co-
workers, and/or the public.

7/16/2009
DATE

Professional Account Management, LLC
CONTRACTOR NAME

SIGNATURE
President
TITLE

EXHIBIT "F"

DRUG POLICY COMPLIANCE DECLARATION

I, Gary Smith President as an owner or officer of
(Name) (Print/Type) (Title)

Professional Account Management, LLC (Contractor or Vendor)
(Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from January 15 to July 15, 2009.

Initials
A written Drug Free Workplace Policy has been implemented and employees notified.
The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

Initials
Written drug testing procedures have been implemented in conformity with the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

Initials
Collection/testing has been conducted in compliance with federal Health and Human Services (HHS) guidelines.

Initials
Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is.

Initials
From January 2009 to July 2009 the following test has occurred
(Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested	0	0	0	0
Number Employees Positive	0	0	0	0
Percent Employees Positive	0	0	0	0

Initials
Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

Initials
I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

7/16/2009 Gary Smith
(Date) (Typed or Printed Name)

(Signature)
President
(Title)